STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION FILE NO.: 08 CVS 1277

WAKE COUNTY

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

CHARLES L. ALSTON, JR, Attorney,

Respondent

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CONSENT ORDER OF PRLIMINARY INJUNCTION

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County on petition for preliminary injunction by the North Carolina State Bar. Petitioner, the North Carolina State Bar was represented by Jennifer A. Porter. The Respondent, Charles L. Alston, Jr., did not appear and was not represented by counsel. Based upon the verified petition and motion with attachments herein and the consent of the parties, the Court makes the following:

FINDINGS OF FACT

- 1. Respondent, Charles L. Alston, Jr. ("Alston"), was licensed to practice law in North Carolina in 1993.
- 2. As of the date of this petition, Alston's last known physical address of record on file with the North Carolina State Bar is 801 Baxter Street, Suite 404, Charlotte, NC 28202. Alston also has the following P.O. Box address on file with the State Bar: Box 35185, Charlotte, NC 28235.
- 3. During 2005 through 2007 Alston maintained a trust account at RBC Centura ending in the digits 9888.
- 4. Between March and August 2007, Alston wrote 13 checks from his trust account to his office assistant, Luz Sierra, disbursing a total of \$27,020.17 in trust account funds to Ms. Sierra. These disbursements are not identified as proper disbursements in any client matter nor were there funds being held in the trust account on Ms. Sierra's behalf which would have funded disbursement to her of \$27,020.17 from Alston's trust account.
- 5. Prior to these disbursements to Ms. Sierra, funds in the amount of \$8,807.87 were deposited into Alston's trust account on behalf of client Marcus Greene (hereinafter "Greene"). Alston disbursed \$2,906.00 by check #1222 on or about March 5, 2007 which is 1/3 of \$8,807.87 and which appears to be labeled as Alston's attorney

fee in the matter. Alston did not disburse the remaining \$5,901.87 to Greene or on Greene's behalf. Instead, Greene's funds were among the client funds in Alston's trust account disbursed to Ms. Sierra. After the above described series of disbursements to Ms. Sierra, the balance in Alston's trust account at the end of August 2007 was about \$575.00.

- 6. In September 2007, a deposit in the amount of \$9,100.00 was made on behalf of client Jekemia Griggs (hereinafter "Griggs"). Prior to this deposit, the balance in Alston's trust account was about \$575.00. After this deposit, the balance in Alston's trust account was about \$9,675.12. Alston disbursed \$2,275.00 in a check made out to "Cash" on or about September 19, 2007. This amount is 25% of \$9,100.00 and may have been Alston's attorney fee in the Griggs matter. Alston disbursed \$2,329.57 to Griggs on or about September 24, 2007. Alston then disbursed the remainder of Griggs' funds plus about \$400.00 more of trust account funds in three checks made out to "Cash" totaling \$4,900.00 in October 2007. Alston did not disburse the remainder of Griggs' funds to Griggs or on Griggs' behalf.
- 7. The State Bar has attempted to communicate with Alston regarding his handling of client funds. Alston was served with letters of notice regarding client funds and trust account matters, including the Marcus Greene matter, and a subpoena for cause audit on November 28, 2007. Alston did not provide the required written response to the letters of notice and did not comply with the subpoena for his financial records.
- 8. From the foregoing facts it appears that funds belonging at the time to Alston's clients have been misappropriated in violation of Rules 8.4(b), 8.4(c), 1.15-2 and 1.15-3 of the Revised Rules of Professional Conduct.
- 9. A need for prompt action exists to ensure that additional client funds are not mishandled to their detriment.

Based upon the foregoing findings, the Court makes the following:

CONCLUSIONS OF LAW

- 1. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Alston's trust and operating accounts and to ensure that no client funds are mishandled.
- 2. Alston should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from withdrawing funds from and/or writing checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited, except as expressly authorized by this order.

- 3. To assist the State Bar's analysis of his trust and operating accounts, Alston should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited. Alston shall provide the N C State Bar with ail records of all accounts in which mishandled fiduciary funds were deposited.
- 4. Alston should not be permitted to serve in any fiduciary capacity, including trustee, escrow agent, personal representative, executor or attorney-in-fact until further order of this Court

THEREFORE, IT IS HEREBY ORDERED:

- 1. Charles L. Alston, Jr. is enjoined from accepting any further funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or writing any checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited until permitted by subsequent orders of the Court.
- 2. Charles L. Alston, Jr. or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall immediately produce to the N.C. State Bar for inspection and copying all of Alston's financial records relating to such accounts including but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs and debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.
- 3. If Alston does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Revised Rules of Professional Conduct, he shall direct the bank(s) where his trust account(s) (and all other accounts) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the N.C. State Bar, at Alston's expense.
- 4. Charles L. Alston, Jr., or any other person having custody or control over records relating to individuals for whom Alston has provided legal services shall produce to the North Carolina State Bar for inspection and copying all records and documents, including but not limited to, client files, billing statements, memoranda and receipts. Current client files shall be produced within 24 hours of demand by the State Bar and closed client files shall be produced within 3 days of demand by the State Bar.
- 5. Alston shall not serve in any fiduciary capacity, including trustee, escrow agent, personal representative, executor or attorney-in-fact until further order of this Court.
- 6. This Consent Order of Preliminary Injunction shall remain in effect until further orders of this Court.

THIS the \frac{\sqrt{g}}{\text{day of}} day of	Jany	
WE CONSENT		Orlando F. Hudson, Jr. Date:
Jennifer A. Porter Attorney for Petitioner Charles L. Alston, Jr. Respondent	-	